## ORDINANCE NO. \_\_\_\_, SERIES 2009

AN ORDINANCE APPROVING THE SECOND AND THIRD PAYMENTS OF FOURTEEN MILLION THREE HUNDRED THOUSAND (\$14.300.000) DOLLARS PLUS ASSOCIATED EMPLOYER COSTS BY MARCH 31, 2010 AND FOURTEEN MILLION NINE HUNDRED THOUSAND (\$14,900,000) DOLLARS PLUS ASSOCIATED EMPLOYER COSTS BY JULY 15, 2010, SUCH AMOUNTS TO BE FUNDED THROUGH CURRENT RESOURCES INCLUDING BUT NOT LIMITED TO UNRESERVED GENERAL FUND BALANCE, SUCH PAYMENTS ARE PART OF THE A FORTY-FIVE MILLION (\$45,000,000) DOLLAR TENTATIVE SETTLEMENT OF LITIGATION WITH EIGHT HUNDRED THIRTY-FOUR (834) PLAINTIFFS, CURRENT AND MEMBERS OF THE LOUISVILLE FIRE DEPARTMENT. OVERTIME DUE ON LUMP SUM ALLOWANCES FROM 1985 THROUGH 2008.

## SPONSORED BY: Jon Ackerson, District 18

WHEREAS, former and current employees of the Louisville Fire Department filed claims in 2000 against the City of Louisville for the failure of the city to pay overtime on certain lump sum allowances given to the employees under state wage and hour laws and subsequently their union contract; and

WHEREAS, the City of Louisville challenged the calculation of the overtime due and the contract claim but received adverse decisions by Jefferson Circuit Court, the Kentucky Court of Appeals and the Kentucky Supreme Court on most of the claims made; and

**WHEREAS,** Louisville Metro as a successor to the City of Louisville was held by the Courts to be liable for the unpaid overtime; and

WHEREAS, a mediation was held on October 5, 2009 to resolve the dispute without additional litigation; and

WHEREAS, Metro Council approved the initial payment of Fifteen Million Eight Hundred Thousand (\$15,800,000) Dollars, plus associated employer costs from two sources, (1) the sum of Eight Million Six Hundred Thirty-two Thousand One Hundred Thirty-One Dollars and Twelve Cents (\$8,632,131.12) from the Escrow and Deposit portion of the Agency Fiduciary Fund and (2) the sum of Seven Million One Hundred Sixty-Seven Thousand Eight Hundred Sixty-Eight Dollars and Eighty-Eight Cents (\$7,167,868.88) from the designated portion of the General Fund Balance which was transferred to the Risk Management Fund for the purpose of the December 1, 2009 settlement payment; and

WHEREAS, the Metro Council is aware that associated employer costs that will encompass part of the settle payment for the second and third installments has not been determined yet, but the maximum payment that will be made from unreserved general balance shall be no more than \$54.2 million, which is the amount the City of Louisville had in its reserve account prior to the merger of city and county governments; and

WHEREAS, if the settlement payment for the second and third installments exceeds \$54.2 million, then the Metro Council will consider all other funding mechanisms to satisfy the remaining amount due to complete the settlement.

NOW THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

<u>Section I.</u> The Metro Council approves the payment of the second and third payments in the settlement of litigation with eight hundred and thirty-four (834) former and current employees of the Louisville Fire Department as follows:

By March 31, 2010 – Fourteen Million Three Hundred Thousand (\$14,300,000) Dollars to the Plaintiffs of specific amounts as determined by agreement of the parties and related employer costs;

By July 15, 2010 – Fourteen Million Nine Hundred Thousand (\$14,900,000) Dollars to the Plaintiffs of specific amounts as determined by agreement of the parties and related employer costs.

**Section II.** The sum of Twenty-nine Million Two Hundred Thousand Dollars (\$29,200,000) is hereby transferred from the undesignated portion of the General Fund Balance to the Risk Management Fund for the purpose of the March 31, 2010 and July 15, 2010 settlement payments described in Section I. The sum of \$29,200,000 plus associated employer costs is hereby appropriated from the Risk Management Fund for the disbursement of those Settlement payments.

Section III. This ordinance shall take effect upon its passage and approval.

| Kathleen J. Herron         | <br>David W. Tandy       |
|----------------------------|--------------------------|
| Metro Council Clerk        | President of the Council |
| Jerry E. Abramson<br>Mayor | Approval Date            |

## Michael J. O'Connell Jefferson County Attorney BY: \_\_\_\_\_\_ LFD \$45M Settlement.doc 11-2-09

**APPROVED AS TO FORM AND LEGALITY:**